

Entry of the Amendment is proper under 37 C.F.R. §1.116 because the Amendment: a) places the application in condition for allowance for the reasons discussed herein; b) does not raise any new issue requiring further search and/or consideration because the Amendment amplifies issues previously discussed throughout prosecution; c) does not present any additional claims without canceling a corresponding number of finally rejected claims; and d) places the application in better form for appeal, should an Appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. The Amendments to the subject claims do not incorporate any new subject matter into the claims. Thus, entry of the Amendment is respectfully requested.

Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 102 (e) as unpatentable over Saitoh et al. (U.S. Patent No. 6,127,039). The rejection is respectfully traversed.

Claim 1 is directed to a magnetic recording medium comprising a lower non-magnetic layer containing at least a carbon black and a lower layer binder resin on a non-magnetic support and an upper magnetic layer having a thickness of 0.30  $\mu\text{m}$  or less on the lower non-magnetic layer. Claim 1 recites that the upper magnetic layer contains at least a ferromagnetic powder, an upper layer binder resin, and an abrasive having a Mohs hardness of 6 or higher and a smaller average particle size than the thickness of the upper magnetic layer. Claim 1 further recites that at least the lower layer binder resin has a three-dimensional crosslinking structure.

It is respectfully submitted that the rejection is improper because the applied art fails to teach each element of claim 1. Specifically, the applied art fails to teach at least a lower layer binder resin has a three-dimensional crosslinking structure. Thus, it is respectfully submitted that claim 1 is allowable over the applied art.

Claims 2-4 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reasons the independent claim is allowable as well as for the features they recite.

Claims 8 and 9 are canceled and therefore the rejection as applied to these claims is now moot.

Withdrawal of the rejection is respectfully requested.

Claim 5 is rejected under 35 U.S.C. 103 (a) as unpatentable over Saitoh et al. as applied to claim 1 in view of Echigo et al. (U.S. Patent No. 5,342,668) or Sato et al. (U.S. Patent No. 4,571,362). The rejection is respectfully traversed.

As indicated above, claim 1 is allowable over Saitoh. It is respectfully submitted that neither Echigo nor Sato cures the deficiencies of Saitoh. Thus, claim 1 is allowable over the combination of the references. Claim 5 depends from claim 1 and includes all of the features of claim 1. It is respectfully submitted that claim 5 is allowable at least for the reason claim 1 is allowable as well as for the features it recites.

Withdrawal of the rejection is respectfully requested.

Newly-added claims 10 and 11 include features not shown in the applied art. It is respectfully submitted that the features of these claims have already been examined and therefore no further search and/or consideration of the same is required. In particular, claim 10, for instance, includes all of the features of claims 1-4.

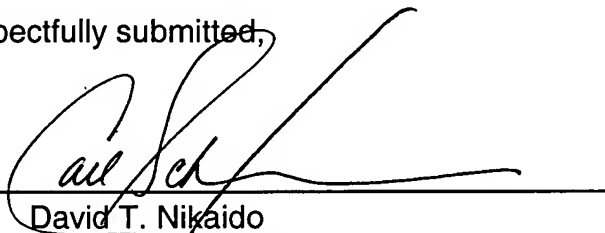
In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

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Enclosure(s):      Appendix I (Marked-Up Version of Amended Claims)  
                             Petition for Extension of Time (one month)

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## **APPENDIX I**

### **(MARKED-UP VERSION OF AMENDED CLAIMS)**

1. (TWICE AMENDED) A magnetic recording medium comprising a lower non-magnetic layer containing at least a carbon black and a ~~radiation-curing lower layer~~ binder resin on a non-magnetic support and an upper magnetic layer having a thickness of 0.30  $\mu\text{m}$  or less on the lower non-magnetic layer, wherein the upper magnetic layer contains at least a ferromagnetic powder, ~~a~~ an upper layer binder resin, and an abrasive having a Mohs hardness of 6 or higher and a smaller average particle size than the thickness of the upper magnetic layer and the lower layer binder resin has a three-dimensional crosslinking structure.